

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Robert S. Garner, individually, and on
behalf of those similarly situated,

Plaintiff,

v.

GLOBAL PLASMA SOLUTIONS, INC.,

Defendant.

ELECTRONICALLY FILED

CASE NO. 1:23-cv-3097

C.A. No. 1:21-cv-00665-SB
Case filed in the United States District
Court for the District of Delaware

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO COMPEL
COMPLIANCE WITH SUBPEONAS**

Defendant seeks to use *this* case simply to bolster its \$1.8 billion-dollar attack on the academic journal that published Dr. Stephens' article. If Defendant seeks to conduct discovery in *that* case, it should conduct discovery through *that* case rather than use *this* case as a vehicle in Defendant's campaign against scientists and academia. Defendant's request should be denied in its entirety.

“Notwithstanding that Stephens had actual knowledge that publication of the IIT Study subjected him and the other authors to a potential lawsuit, GPS has not sued Stephens, Zeng, or any other author. Instead, GPS simply seeks to obtain documents and information that it may use to defend itself against the putative

class action filed against it as a result of and in reliance on Zeng and Stephens' research. Therefore, this Court should enforce the subpoenas and compel Zeng and Stephens to comply therewith.”¹

Defendant closes the argument section of its brief with this statement. However, while Defendant denies that the information sought will be used for offensive purposes, that belies the record. Long before the case *sub judice* was filed, Defendant started its campaign against scientists that question Defendant's veracity or its Products' effectiveness. The case *sub judice* was filed in May 2021, well after Defendant started its attacks on scientists that questioned the Products.

In March 2021, Dr. Stephens published an article in the journal *Building and Environment* which examined Defendant's Products.

Also in March 2021, Defendant filed suit against Francis Offermann in the Northern District of Georgia because his analysis referred to the Products as “snake oil.”² This case was dismissed and refiled in the Northern District of California in April 2021.³ In January 2023, the parties in the case agreed to dismiss it with prejudice.⁴

In April 2021, Defendant filed suit against Dr. Marwa Zaatari in the Northern District of Texas.⁵ In March 2023, Defendant dismissed the case with prejudice.

¹ Defendant's Motion, p. 10.

² 1:21-cv-01059-MHC.

³ 4:21-cv-02884-JSW.

⁴ *Id.* at Doc. No. 82.

⁵ 3:21-cv-00884.

Recently Defendant amended the complaint against Elsivier where Defendant is suing the publisher of Dr. Stephens' article for \$1.8 billion.⁶ The documents sought in *this case* are merely sought to bolster Defendant's case against the academic publisher of Dr. Stephens' article.

Now that two of its previous cases are no longer active, Defendant's battleplan has come full circle and it lines up for its final attack on Elsivier. If Defendant wishes to win its case against Elsivier, it should go through proper discovery in *that* case rather than use *this* case as its vehicle to harass, attack, and annoy scientists that question Defendant's veracity.

Dated: June 1, 2023

Respectfully submitted,



REICH & BINSTOCK LLP

Dennis C. Reich, Esq.
4265 San Felipe, Suite 1000
Houston, TX 77024
Phone: (713) 622-7271
Fax: (713) 623-8724
dreich@reichandbinstock.com

**pro hac vice*
Attorneys for Plaintiffs and the Class

⁶ Attached hereto as Exhibit A.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2023, a true and correct copy of this Memorandum was filed with the Court via the Electronic Case Filing System, and was served on all counsel of record through the same means.



Dennis C. Reich, Esq.